

# **IOWA RACING AND GAMING COMMISSION**

## **MINUTES**

### **MARCH 5, 2015**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, March 5, 2015 at Prairie Meadows Racetrack and Casino, Altoona, Iowa. Commission members present were Jeff, Lamberti, Chair; Carl Heinrich, Vice Chair; and members Kris Kramer and Dolores Mertz. Commissioner Arnold participated via conference phone.

Chair Lamberti called the meeting to order at 8:30 AM and requested a motion to approve the agenda. Commissioner Mertz moved to approve the agenda as presented. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the approval of the minutes from the January 22, 2015 Commission meeting. Commissioner Heinrich moved to approve the minutes as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Brian Ohorilko, IRGC Administrator, for announcements. Mr. Ohorilko provided the following information regarding upcoming Commission meetings:

- April 16, 2015 – Mid America Center, Council Bluffs, IA (Submissions due by April 1, 2015)
- May 2015 – No Meeting
- June 4, 2015 – Hard Rock Hotel & Casino, Sioux City, IA (Submissions due by May 20, 2015)

Chair Lamberti called on Eric Preuss, Program Manager for the Iowa Gambling Treatment and Prevention Program in the Iowa Department of Public Health (IDPH), who advised March is National Problem Gambling Awareness Month. Through the National Council on Problem Gambling, this is a collaborative effort across the country. The theme this year is “Have the Conversation” with the goal of educating the public and healthcare professionals about the warning signs of problem gambling and promote the availability of help and hope both locally and nationally. He advised there are local and state-wide activities planned in partnership with the Iowa Lottery, Iowa Gaming Association and National Council on Problem Gambling.

Mr. Preuss stated the majority of Iowans gamble because it is fun, and don’t experience any problems; however, approximately 16% of adult Iowans are classified as adverse gamblers as they exhibit one or more symptoms of problem gambling. He stated between eight and twelve million people in the United States meet the criteria for gambling problems, but only a fraction seek help as they don’t know why they developed the problem, what a gambling disorder is or where to seek help. Mr. Preuss stated problem gambling does not discriminate based on age, gender, religion, social status or education, can happen to anyone, and may develop with any form of gambling activity. Groups at high risk of developing a gambling problem are seniors, adolescents, college students, athletes and veterans. Mr. Preuss advised the IDPH funds ten gambling treatment programs covering all 99 counties; these programs provide services to over

600 Iowans each year. One of the programs funded is the 1-800 BETS OFF phone line, which is on pace to receive over 5,000 calls this year. IDPH also funds eleven problem gambling prevention programs, which provide services to over 79,000 Iowans each year. Mr. Preuss stated IDPH is funded through an appropriation from the General Fund, and has been flat funded at \$3.1 million for the past couple of years.

Chair Lamberti called on the Iowa Gaming Association for a year-end report on the County Endowment Program. Wes Ehrecke, President of the Iowa Gaming Association, advised the gaming industry does collaborate with the treatment providers, who will be invited to the various casinos during the month to set up tables to interact with patrons. Gary Palmer, General Manager of Prairie Meadows Racetrack & Casino, Inc. d/b/a Prairie Meadows Racetrack & Casino (PMR&C) advised their facility uses Prelude Behavioral Services (formerly MECCA), which provides literature to the facility to make available to patrons. He advised that all of the facilities take problem gambling very seriously and will be participating in various activities throughout the month.

Mr. Ehrecke distributed copies of the “Building Iowa’s Communities through Philanthropy” book, which provides information on the County Endowment Program established by the Legislature in 2006. This program provides gaming tax revenue to the 85 non-gaming casino counties. Each county has a county foundation that determines how the funds will be distributed, which is reflected in the report. The report also contains a report on the casino non-profit entities’ distribution of their funds.

Chair Lamberti called on Caesar’s Entertainment Corporation, Inc. (Caesar’s) for an update on their bankruptcy proceedings. Lorraine May, legal counsel, advised Caesar’s and related debtors, including the two Harvey’s properties in Council Bluffs, filed voluntary Petitions with the Bankruptcy Court for the Northern District of Illinois. On the same date, the Bankruptcy Court entered orders authorizing the debtors to continue to use cash collateral and their bank accounts, to continue their customer programs, and pay their employee wages and benefits, insurance obligations, and taxes and fees. Ms. May advised the company has sufficient cash on hand to continue to meet its ongoing obligations. She stated the company has transitioned smoothly into bankruptcy and their operations are ongoing. She further stated the case is intended to right-size the company’s balance sheet and is not intended to be operational. Prior to commencing the bankruptcy case, Caesar’s entered into a Restructuring Support Agreement with certain senior creditors; and continues to pursue the restructuring contemplated in the agreement. They filed a Chapter 11 plan and related disclosure statement on March 2<sup>nd</sup>. Ms. May advised Caesar’s has not requested a hearing on the approval of their disclosure statement. She stated the Bankruptcy Court continues to hold hearings on a regular basis; additional hearings are scheduled for March 25<sup>th</sup> and April 29<sup>th</sup>. She advised they will continue to provide updates over the upcoming months.

Chair Lamberti moved to the license renewals for the excursion gambling boats and gambling structures. He advised the Commission has requested information regarding how the non-profit boards are structured, number of members, term limits, how many elected officials, etc. The Commission believes one of their obligations is to make sure the non-profit entities are following

good governance procedures. Chair Lamberti stated the Commission has no reason to believe they are not; and after reviewing the information, will make some recommendations as to what they would like to see regarding the aforementioned items based on national recommendations.

Chair Lamberti called on Iowa West Racing Association (IWRA)/Ameristar Casino Council Bluffs, Inc. d/b/a Ameristar Casino Council Bluffs (Ameristar). Pete Tulipana, Executive Director of IWRA, stated they have an excellent relationship with Ameristar and Harrah's and is impressed with the amount of cooperation received from both entities. He noted the facilities provided IWRA with approximately \$7 million last year, which has a significant impact on the quality of life in southwest Iowa. An example is the announcement of a new \$14 million YMCA; the funding campaign started with a \$3.5 million gift from the Iowa West Foundation; and the balance of the funds were raised by donations from southwest Iowa and the metropolitan Omaha area. Mr. Tulipana stated both facilities are major employers and draw thousands of visitors to the area which impacts the area's economy. He requested approval of the license renewal applications for Ameristar and Harrah's.

Troy Stremming, Senior Vice President of Government Relations for Pinnacle Entertainment, the parent company for Ameristar, stated they also enjoy the relationship they have with IWRA. He advised 2014 was a great year for the property, and are hopeful 2015 will be better. Mr. Stremming advised they are looking at gaming and non-gaming enhancements for the property and will share those as they come to fruition. He requested renewal of the license.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Heinrich moved to renew the license to conduct gambling games to IWRA and renew the license to operate Ameristar as an excursion gambling boat that will not cruise. Commissioner Kramer seconded the motion, which carried unanimously.

Bo Guidry, General Manager for Harvey's Iowa Management Company, Inc. d/b/a Harrah's Council Bluffs Casino and Hotel (Harrah's), stated they also enjoy a great relationship with IWRA, and look forward to continuing their relationship for many years to come. He requested approval of their license renewal application.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Heinrich moved to renew the license to conduct gambling games to IWRA and renew the license to operate Harrah's as a gambling structure. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Washington County Riverboat Foundation, Inc. (WCRF)/Riverside Casino and Golf Resort, LLC d/b/a Riverside Casino & Golf Resort (RCGR). Dan Franz, General Manager, advised resort revenue overall was flat; gaming revenue was down about 1% while the majority of the facilities were down 2%. He advised they spent a significant amount in promotional funds to maintain the gaming revenue. Costs were up 0.3%. Mr. Franz advised the numbers are similar to 2013. He stated they have contributed over \$227 million in taxes to the State of Iowa, Washington County, and the City of Riverside since commencing operations. Outside of the required non-profit contribution, the facility has distributed funds to 448

organizations in 114 different cities. Employment is approximately 700 employees, but will increase to 750 when the golf course opens. He noted the employee volunteer program continues to grow toward the goal of 10,000 volunteer hours per year. Mr. Franz stated the facility has a great relationship with WCRF, which does great work throughout eastern Iowa. He submitted a contract with Konami Gaming, LLC for a SYNKBOX replacement for Commission approval. Mr. Franz introduced the new president of WCRF, Mike Driscoll.

Mr. Driscoll advised WCRF awarded \$3.6 million in grants to 142 different non-profit organizations; 66% to non-profits in Washington County and 34% to non-profits outside the county. He stated they are a large supporter of the local school districts, providing technology and facilities. He noted they had provided funds for a veteran's memorial park in Keota, which raised \$50,000 toward the project; as well as a new convention center in Washington County. The Lake Darling State Park was reopened in 2014, and over the last several years WCRF has partnered with the lake and provided grants for a new lodge, trails, lake improvements and guest cabins. Mr. Driscoll stated WCRF has a strong relationship with the casino, and recently voted to renew their operating agreement with RCGR. He advised they are looking forward to 2015, with a new round of grants in May. He requested approval of the license renewal application.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to WCRF and renew the license to operate RCGR as a gambling structure, and approve the contract as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Black Hawk County Gaming Association (BHCGA)/IOC Black Hawk County, Inc. d/b/a Isle Casino & Hotel Waterloo (IOC Waterloo). Tim Hurley, Chairman of BHCGA, thanked the Commission for their hard work over the past year. He advised they also have a great partnership with their partner, IOC Waterloo, which has lived up to all of their commitments and are an asset to the community. In the past year, BHCGA has distributed just over \$2.5 million to 35 projects in 20 different municipalities in Black Hawk County and the six surrounding counties. The funds went to fund cardiac monitors for fire departments, computers for police departments, museums and libraries, and \$25,000 to the Iowa Mercy Mission of Dental Clinic, new fire and rescue equipment for emergency responders, materials for a new program in the Cedar Falls area dealing with education and character development, and renovation of buildings in numerous communities. Since its inception, BHCGA has distributed over \$31 million to 323 projects with 87% of them completed. Mr. Hurley stated BHCGA funds most applications at approximately one-third of the project, meaning an additional \$62-65 million has been leveraged through private, federal, municipal or community funds for a \$109 million impact in the last seven years. He advised one area of emphasis has been downtown Waterloo's Riverfront Renaissance, and the Cedar Valley Sportsplex, to which BHCGA donated \$8 million, celebrated its first full year of operation. The facility is operated by the City of Waterloo and is operating in the black. Mr. Hurley stated their relationship with IOC Waterloo has never been stronger, and reported the operating agreement between the two entities has been extended through March 31, 2018. He stated BHCGA's goal is to help the Cedar Valley prosper, and the promises made to the Commission are being fulfilled. He requested approval of their license renewal.

Bari Richter, General Manager of IOC Waterloo, requested the renewal of their license. She advised the facility is very proud of the reinvestment made in the facility, and their Farmers Pick Buffet, which allows them to purchase products directly from farmers. They intend to search out additional farmers to work with this year. Ms. Richter requested renewal of their license.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to BHC GA and renew the license to operate IOC Waterloo as a gambling structure. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Worth County Development Authority (WCDA)/Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, introduced Deb Hanson, Chief Financial Officer for WCDA. Ms. Hanson advised 91 Worth County seniors received a scholarship in the amount of \$7,835.13 to the college of their choice. She stated they have a great partnership with DJW, and requested renewal of their license.

Mr. Pang advised they have 430 employees, 289 from Iowa and approximately 140 from Minnesota. He stated WCDA works with non-profits in northern Iowa and southern Minnesota. He expressed appreciation for WCDA's work in the local communities. He requested approval of their license renewal, and the following contracts:

- MultiMedia Games – Purchase of Slot Machines and Tournament Package
- Rapids Foodservice – Purchase of Food and Beverage Equipment

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to renew the license to conduct gambling games to WCDA and renew the license to operate DJW as a gambling structure, and the contracts as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Scott County Regional Authority (SCRA)/Isle of Capri Bettendorf, L.C. d/b/a Isle Casino Hotel Bettendorf (IOCB). Nancy Ballenger, General Manager of IOCB, introduced Heather Brummel, the new President of SCRA. Ms. Brummel advised that since 1991, SCRA has awarded approximately \$72 million in grants benefiting the residents of Scott County, with grants being awarded twice a year. She gave a brief synopsis of the grant distribution process. Ms. Brummel stated SCRA awarded \$2.9 million to 114 organizations in 2014. She highlighted two recent grants: one was to purchase a fuel efficient food truck for the River Bend Food Bank, which delivers fresh produce and other food items to approximately 1,000 individuals per week in Scott County. The other grant was to the Davenport Community Schools, which launched a Creative Arts Academy last fall, partially housed in downtown Davenport. The school offers experiences in visual arts and music performances to over 50 sixth-grade students, who also receive instruction in core curriculum classes with an arts-integrated approach. An additional 50 high school juniors and seniors are taking electives presented by many downtown arts partners. Funds were used to secure classrooms, technology, furniture, and art equipment.

Ms. Ballenger advised IOCB started their \$8.4 million renovation of the South Tower in February; all guest rooms and public areas are being refreshed. The renovations should be completed by late June or early July. She advised IOCB and SCRA have reached a mutually acceptable agreement to move the facility from the boat to a land-based facility. Ms. Ballenger noted there are a few more details to work out and finalize, but she hopes to be in front of their Board of Directors shortly and come before the Commission within the next month to present the project to the Commission. She requested approval of the license renewal.

Ms. Ballenger submitted the following contracts for Commission approval:

- CDW Direct – Computer Equipment and Supplies
- Bally Gaming – Purchase of Slot Machines and Parts
- Oracle-Micros – Upgrade to Current Micros Point of Sales Terminals, including All Hardware

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to renew the license to conduct gambling games to SCRA and renew the license to operate IOCB as an excursion boat that will not cruise and the contracts as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Riverboat Development Authority (RDA)/Rhythm City Casino, LLC d/b/a Rhythm City Casino (RC). Mo Hyder, General Manager, noted 2014 was an exciting year for the property, starting with the acquisition of the property and transitioning under the new leadership. He stated the property's economic impact was approximately \$31 million, with \$13 million being paid to the State in gaming taxes along with general contributions.

With regard to the new project, Mr. Hyder advised there is a lot of excitement. He noted the design work has been shared with all of the employees. He stated work has continued on the site utilities. The work on the road necessary to gain access to the site is expected to commence in the coming week and be completed sometime in May, which would allow for paving to start. The bid process for the design has started. Mr. Hyder stated they hope to have the new facility open in early summer 2016. He introduced Randy Rathje, President and Chief Executive Officer of RDA.

Mr. Rathje, noting the RDA's relationship with the Kehl family is less than 12 months old, stated they have gotten off to a positive start, and are very excited about the future. Over the last two grant cycles, RDA has distributed over \$1.7 million to approximately 90 non-profit agencies. This brings their total distributions since 1991 to almost \$58 million. Mr. Rathje stated they are looking forward to the construction of the land-based facility, which has created a positive vibe in the community and also created a significant amount of commercial and retail development interest. He requested the approval of the license renewal application.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Heinrich moved to renew the license to conduct gambling games to RDA and renew the license to operate

RC as an excursion boat that will not cruise. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Dubuque Racing Association (DRA)/Diamond Jo, LLC d/b/a Diamond Jo Casino (DJ). Wendy Runde, General Manager, stated DJ takes the “Buy Iowa” program very seriously, and advised 98.6% of purchases in 2014 were with Iowa vendors. They paid \$14 million in payroll taxes and benefits, \$9 million in supplies, \$18 million in taxes and \$3 million in donations and charitable contributions, of which \$2.8 million went to DRA. Ms. Runde stated they have a great relationship with DRA, and are accomplishing great things in the community together. Ms. Runde submitted the following contracts for Commission approval:

- The Printer, Inc. – Direct Mail Printing
- TownSquare Media – Radio Media Buy

Ms. Runde introduced Tom Wiedmayer, the General Manager at Mystique Casino and DRA.

Mr. Wiedmayer advised that Ms. Runde and the employees of DJ are a great asset to the community, and partners in the community. With regard to the DJ’s contributions to DRA, Mr. Wiedmayer stated they paid \$2.8 million to DRA, which allowed them to give \$6.5 million to the City of Dubuque - \$5.2 million in rent and \$1.3 million in year-end distributions. He advised DRA awarded 159 grants to non-profits in the region totaling just over \$1.1 million, with an emphasis on education, public safety, health and human services, civic and community development and arts and recreation. Mr. Wiedmayer requested approval of the license renewal.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to DRA and renew the license to operate DJ as a gambling structure, and the contracts as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Lyon County Riverboat Foundation, Inc. (LCRF)/Grand Falls Casino Resort, LLC d/b/a Grand Falls Casino Resort (GFCR). Sharon Haselhoff, General Manager, introduced Jeff Gallagher, President of LCRF, and stated they were present to request approval of the license renewal, and the following contracts:

- GPS Technologies, Inc. – Golf Cart GPS Lease Agreement
- Harris Golf Carts – Golf Cart Fleet Purchase
- Marcus Lumber – Golf Course Construction: Maintenance Building and Toilet Facilities
- Vital Support Systems – Technology Solutions: Hardware, Software, and Support Services

Ms. Haselhoff stated gaming revenues exceeded \$58.7 million, a slight increase from 2013. She advised 2015 is also going to be an exciting year for the facility with the long anticipated opening of their golf course, The Falls at GFCR. She stated GFCR has contributed over \$50 million in gaming taxes and fees to the State of Iowa, and created over 500 jobs with an annual

payroll in excess of \$14 million. She advised they have a great relationship with LCRF, and turned the floor over to Mr. Gallagher.

Mr. Gallagher advised funds were utilized to build a new fire house in Larchwood, a community center in Lester, a swimming pool in Inwood, and a day care in Rock Rapids is currently under construction. Additionally, they give half of their funds directly to the school districts and cities in Lyon County. Since GFCR opened, they have given in excess of \$750,000 to the three school districts and almost \$200,000 to each of the eight cities and the county. Those funds have a significant impact on the budgets and help to keep taxes just a little bit lower.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to renew the license to conduct gambling games to LCRF and renew the license to operate GFCR as a gambling structure, and the contracts as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Clarke County Development Corporation (CCDC)/HGI-Lakeside, LLC d/b/a Lakeside Hotel Casino (Lakeside). Bob Thursby, General Manager, introduced Michael Silberling, Chief Executive Officer for Affinity Gaming. Mr. Silberling stated he worked at Harrah's from 2006-2008, and has strong ties to that community, as well as Des Moines. He indicated he looks forward to working with the employees and local and Iowa vendors. He noted the good work CCDC has done in Osceola and other communities.

Mr. Thursby submitted the following contracts for Commission approval:

- Des Moines Asphalt and Paving – Parking Lot Overlay with Asphalt
- GTECH USA, LLC – Slot Machines and Slot Machine Leases

Doug Gross, legal counsel for CCDC, stated they continue to receive 1.5%, while state law mandates 3%. He stated the parties have been fighting for 4-5 years to try and get the contribution rate up to the statutory minimum. Mr. Gross noted the parties went through mediation which resulted in a Memorandum of Understanding that would have paid them 3% upon the sale of the facility if that occurred prior to 2017. CCDC thought it was a done deal, however, after signing the agreement, Affinity decided that was not what the agreement meant. Mr. Gross stated CCDC has spent a significant amount of money over the last year litigating the issue; a trial is now scheduled for May 11 in Federal District Court, which will hopefully resolve the issue. He stated CCDC did provide a letter along with the license application as they have done in the past, indicating that Affinity is not meeting the statutory minimum and believe the statute is very clear on the matter. He requested that if the Commission approves the license renewal application they make it clear that upon a sale, it would be the Commission's policy that the minimum 3% payment would be required to the non-profit.

Jerry Crawford, legal counsel for Affinity Gaming, described the situation between the parties as a simple disagreement that will be resolved in court on May 11. He advised that Mr. Gross believes that 1.5% plus 1% equals 1.5%, Affinity believes that equals 2.5%. Mr. Crawford stated state law states that prospective gaming licensees were required to pay 3.0%, and the



agreement in question existed prior to the implementation of the statute. He requested approval of the license renewal application.

Hearing no further comments from the parties, Chair Lamberti called for any questions. He stated there was no issue before the Commission except the license renewal, nor does he want the Commission to address the distribution issue considering the impending litigation. He stated both parties are aware of the Commission's frustration with the situation, and are hopeful of a resolution. Chair Lamberti stated there have been discussions over recent months about the Commission's view with respect to a transfer of ownership, or a sale in any form. He stated the Commission is not prepared to go on record with a motion as the matter is not before the Commission. He stated it is his opinion that if a transfer of ownership in any fashion occurs, he will want the new owners to meet the state required minimum distribution of 3%.

Chair Lamberti called for any further comments or questions. Commissioner Heinrich stated he concurred with Chair Lamberti's comments. He voiced his appreciation for the positive reports from the facilities and non-profits with respect to each other, and wished it were true for CCDC and Lakeside as well.

Commissioner Heinrich moved to renew the license to conduct gambling games to CCDC and renew the license to operate Lakeside as a moored barge and the contracts as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Southeast Iowa Regional Riverboat Commission (SIRRC)/Catfish Bend Casinos II, LLC d/b/a Catfish Bend Casinos II (CBC). Rob Higgins, General Manager, advised they started their 21<sup>st</sup> year of operations. He stated gaming revenues were up approximately 3%, and they continue to have a great relationship with SIRRC. He stated the economic situation in Burlington continues to grow and increase with new projects and industries.

Mr. Higgins introduced Steve Staebell, President of SIRRC. Mr. Staebell advised they enthusiastically support the license renewal application; and the enthusiasm is shared by the many that are benefiting from the \$1.2 million investment in southeast Iowa distributed by SIRRC. This includes funds the Keokuk Convention and Tourism uses for programs and events, money for public safety equipment, parks and recreational facilities in Keokuk. The Ft. Madison segment of SIRRC uses its funds to provide specific grants for a variety of organizations. Money has been used to assist in economic development through Ft. Madison partners and other recipients in Ft. Madison are Habitat for Humanity, YMCA, Westpoint Development Group, and capital improvements at the Tri-State Rodeo grounds. Mr. Staebell advised that in Burlington the money is channeled through Greater Burlington for economic development. Some recent successes include an expansion that will add 120 jobs at the Shearer Bakery, and a \$125 million dollar investment by Sylvan Containers Corporation for a new plant in Burlington, which will eventually provide 120 jobs. He indicated this would not be possible without the partnership with CBC, whom he called a first-class, quality operation and outstanding community partner. He turned the floor back to Mr. Higgins.

Mr. Higgins requested approval of the license renewal, and submitted a contract with Glazer Distributing for the purchase of liquor, wine and beer for Commission approval.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to SIRRC and renew the license to operate CBC as a gambling structure, the contracts contained within the license renewal, and the additional contract as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Clinton County Development Association (CCDA)/Wild Rose Clinton, L.L.C. d/b/a Wild Rose Clinton (WRC). Travis Dvorak, General Manager, advised that a representative for the non-profit was not present, but stated the Board has been active since the inception of gaming in Clinton in 1991. Over those 21 years, CCDA has received over \$21 million to promote economic development, beautify the riverfront, contributed to emergency services and schools. He advised the two had recently partnered to provide new transportation to the Sky Center, a non-profit organization specializing in providing services to adults with special needs.

Mr. Dvorak stated WRC is proud to work with CCDA. WRC recently entered into a new contract with CCDA and agreed to increase the percentage going to CCDA. He stated WRC believes in working with the community outside of CCDA, and team members serve on the City Council, aldermen, and work with Boy Scout and church groups. Regarding the "Buy Iowa" program, Mr. Dvorak stated they try to buy within Clinton County as much as possible. On behalf of CCDA and WRC, Mr. Dvorak requested renewal of the licenses. He also presented a contract with Konami for the purchase of eight new slot machines.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to renew the license to conduct gambling games to CCDA and renew the license to operate WRC as a gambling structure, and the contract as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Palo Alto County Gaming Development Corporation (PACGD)/Wild Rose Emmetsburg, L.L.C. d/b/a Wild Rose Emmetsburg (WR Emmetsburg). Tom Timmons, Vice President of Operations for Wild Rose Entertainment, introduced Don Miller, President of PACGD. Mr. Miller advised they recently distributed grants to 73 organizations along with awards to the city and school. He stated they did a bus tour of all of the grants and it was great to see the pride evident in the small towns. Some of the grants this year were an extension of a bike trail, renovation of a trailer park to accommodate larger trailers, and a thermal imaging unit to the fire department. Mr. Miller thanked WR Emmetsburg staff and management for creating a destination in Palo Alto County.

Mr. Timmons requested approval of the license renewal, and submitted a contract with Accident Fund for Worker's Compensation Insurance.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Heinrich moved to renew the license to conduct gambling games to PACDG and renew the license to operate WR Emmetsburg as a gambling structure, and the contract as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Upper Mississippi Gaming Corporation (UMGC)/Isle of Capri, Marquette, Inc. d/b/a Lady Luck Casino Marquette (LLCM). Don Ostert, General Manager, noted the property celebrated its 20<sup>th</sup> anniversary last year, and has 41 team members out of 195 that were employed there on opening day. He requested renewal of the license on behalf of the team members. Mr. Ostert submitted a contract with Dell for the purchase of network and computer equipment. Mr. Ostert introduced Sindee Gohde, Executive Director of UMGC.

Ms. Gohde requested renewal of the license application. She stated they have a wonderful relationship with Isle, and consider them family. She noted their contract will be up for renewal someday and hope to obtain better terms at that time. She stated they do OK under the present terms.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to UMGC and renew the license to operate LLCM as an excursion gambling boat that will not cruise and the contract as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the contract approval portion of the agenda, and called on Wild Rose Jefferson, LLC d/b/a Wild Rose Jefferson (WRJ). Mike Couch, General Manager, presented the following contracts for Commission approval:

- Martin Brothers – Kitchen Equipment
- Gitchi Gaming, Inc. – Gaming Chairs

As there were no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by WRJ. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (Hard Rock). Todd Moyer, General Manager, noted they did not have a license renewal before the Commission but took the opportunity to thank Missouri River Historical Development for their great work. He submitted the following contracts for Commission approval:

- United Healthcare – Group Healthcare Insurance
- Bally Technologies – Table Games Leases
- Powell Broadcasting – Media Advertising
- The Sgroup – Public Relations Consulting Services
- Terrye Seigel Productions, Inc. – Talent Agent
- Imagine This, Inc. – Promotional Marketing Items
- Penguins Entertainment Management – Talent Agent

- Buzz Analytics Group, LLC – Marketing Consultation

Commissioner Kramer moved to approve the contracts as submitted by Hard Rock. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on DRA d/b/a Mystique Casino (Mystique). Dustin Manternach, Chief Financial Officer, presented an agreement with the Iowa Greyhound Association regarding greyhound racing purse money and the following contracts:

- Bally Technologies – Annual Slot Machine Leases & Purchases and Games/Shuffler & Shuffler Maintenance Agreement
- Giese Sheet Metal – Replace Two 30-Ton Rooftop Units and One 130-Ton Chiller

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the agreement and contracts as submitted by Mystique. Commissioner Heinrich seconded the motion, which carried unanimously.

Following a short break, Chair Lamberti called on Spectrum Gaming for a report on their recommendations regarding the distribution of the Greyhound Racing Fund. Adam Steinberg, Senior Vice President, noted Bluffs Run and Dubuque Greyhound Park conducted 463 races in 2013, which generated approximately \$6 million in live handle, and they paid out just over \$13 million in purses. In preparing their report, Mr. Steinberg stated they were guided by Iowa statute and their interactions with various greyhound industry stakeholders at three public meetings held in November 2014, and via a dedicated e-mail address. He stated they had contact with over 70 individuals or entities. They concluded distribution of the fund based solely on past performance did not follow the intent of the legislation to compensate all industry participants. By basing 80% after one time distributions on past performance, there are sufficient funds to provide ample distributions to the successful owners, fair compensation to the less successful and to those who entered the industry later but still contributed to Iowa's economy. He noted some stakeholders did not want to see out-of-state participants receive any funds; however, state law encourages out-of-state participation in the industry, making it unfair to exclude them from any distribution. Other stakeholders encouraged the use of purse winnings prior to 2010 or for 2015. Mr. Steinberg advised they used the statute as their guide and used the years 2010 through 2014.

Mr. Steinberg stated Spectrum's task was to determine a distribution formula for payments from the Greyhound Cessation Fund. Approximately \$72 million will be paid into the fund; half is earmarked to go to the Iowa Greyhound Association to self-manage greyhound racing in Dubuque. However, if they fail to offer racing in any calendar year, the funds revert to the IRGC for additional distributions. Mr. Steinberg stated their analysis was based on the assumption that \$36 million would be distributed by the Commission. He stated they set up three types of distributions:

- One time distributions of approximately \$1.2 million for no-kill adoption agencies, equipment removal by owners at Bluffs Run, and hardship cases that were not covered by the distributions who might appeal to the Commission;

- Past Performance: \$27.9 million would be paid out to greyhound owners based on past earnings of purses; and
- Fixed Payment: \$ 7 million for trainers, assistant trainers, owners and others regardless of purse earnings.

Mr. Steinberg stated they had allotted funds for the following distributions from the one time distribution category: \$510,000 for the no-kill adoption agencies based on 300 adoptions and a cost of \$1,700 per adoption. To receive payment, the agency would have to provide documentation showing the greyhound was put up for adoption due to the closure, as well as final costs to facilitate the adoption. Additionally, \$75,000 was set aside to assist the kennel owners in the removal of their equipment from Bluffs Run, and \$585,000 to be used for special hardship cases by IRGC. Any funds not used would revert to the past performance fund.

Mr. Steinberg advised the past performance payout is based on the purses paid out to greyhound owners, noting approximately \$69 million was paid out in purses from 2010 through 2014. The top 50 owners collected between 70 and 90% of the purse awards, which is why some funds are set aside in the fixed payment fund for those who were not as successful.

Mr. Steinberg stated the fixed payment distribution fund will be used to make payments to the following groups:

- Greyhound farms - \$2.9 million;
- Iowa-registered greyhounds - \$2.7 million;
- Trainers - \$600,000;
- Assistant Trainers - \$300,000, and
- IRGC administrative costs - \$500,000.

Hearing no comments or questions for Mr. Steinberg, Chair Lamberti thanked Mr. Steinberg and Spectrum for their work as this is new territory. He stated he was very impressed with how thorough the report was, the time put in, and the reasoning behind their findings. With regard to the Commission's process, Chair Lamberti stated Spectrum's report is simply recommendations to the Commission as provided for in the legislation. Going forward, the Commission will go through the normal rule-making process in order to implement any recommendations, which includes ample opportunity for additional input from interested parties, and a public hearing. Chair Lamberti stated the Commission is months away from making a final decision.

Commissioner Heinrich stated he also appreciated the justification and reasoning behind their decisions.

Commissioner Mertz stated the report contained good recommendations, and appreciated her conversation with Mike Diamond, Vice President of Spectrum Gaming.

Chair Lamberti moved to the agenda items for the Iowa Greyhound Association; the first being the request for distribution of the escrow account. Mr. Crawford, legal counsel, advised the Iowa Greyhound Association and Iowa Horsemen's Benevolent and Protective Association have

reached an agreement to partner in simulcasting for the next 20 years. He advised that both parties have signed the agreement, which will be submitted for consideration at the April Commission meeting.

Mr. Crawford stated the Iowa Greyhound Association was before the Commission to request distribution of the escrow fund for use in Dubuque to run their live meet. He stated they have made a recommendation on the appropriate future use of the escrow account. He advised that Ms. May, legal counsel for Caesar's has made a recommendation, as has the IWRA, on a going forward basis. Mr. Crawford stated that counsel for IWRA and he believe the Commission has the jurisdiction to hear from them and make a decision on the matter.

Ms. May stated her belief the issue is properly before the Commission for resolution pursuant to the statutes and administrative rules.

Mr. Crawford highlighted the following areas:

- Jurisdiction: Both parties believe the matter is properly before the Commission for a decision.
- Using the funds at Dubuque is an appropriate use of those funds, and
- Need the entire escrow account in order to execute their plan for live racing at Dubuque.

Mr. Crawford stated it has always been their intent to use the escrow funds to fund live racing in Dubuque in 2015 prior to the start of the payments in January 2016, which would allow them to continue. He stated legal counsel for Caesar's has conducted the negotiations; and advised Caesar's has been willing to give the Iowa Greyhound Association the escrow fund to run the live meet at Dubuque if the Iowa Greyhound Association would give them something they wanted – a credit for a reduction in revenue if the Legislature passes a future law prohibiting smoking at the casinos. Mr. Crawford stated that because they did not get what they wanted, Caesar's will indicate using the funds for the live race meet at Dubuque is not an appropriate use of the funds. He questioned how it could be right if they got what they wanted, but wrong if they did not. Mr. Crawford advised that Caesar's had indicated the Iowa Greyhound Association could have the entire fund in front of Jeff Peterzalek, legal counsel for IRGC; Mr. Ohorilko, and in writing on two different occasions in what were draft settlement agreements.

Mr. Crawford, noting that jurisdiction had been agreed upon, moved to using the escrow fund at Dubuque. He noted it took five years to reach an agreement to end greyhound racing in Iowa. He indicated that from Day 1 of the last legislative session, everyone was aware the escrow fund was going to be used to fund greyhound racing in Dubuque; the immunity provisions were included in the legislation so that IWRA could not be sued. Mr. Crawford noted the Commission had received letters from three out-of-state individuals who want the money to be distributed at Bluffs Run. He called David Robinette, an Iowa greyhound breeder/racer, and Bob Hardison, President of the Iowa Greyhound Association, to the podium to comment on the topic of whether the fund should be used for purses at Bluffs Run or Dubuque.

Mr. Robinette stated he has been a breeder and racer for approximately 20 years. He indicated the use of the escrow fund has been an argument for the entire time he has been racing in Iowa. He stated if the funds are paid out as being suggested, he would gain the most; however, that is not what is best for the state as a whole. The escrow fund would provide them with the opportunity to run, and conduct the race meet on their own, without any arguments except between themselves; and to determine what works and what doesn't work. He questioned how they will get any money from Harrah's when they are in the middle of bankruptcy proceedings. He questioned how they can make a plan to go forward without any assurances of receiving any funds from Harrah's. Mr. Robinette stated the Iowa Greyhound Association proposal for use of the escrow funds would be better for him, the State, and the industry.

Mr. Hardison advised he has been racing greyhounds at Bluffs Run almost from the day the facility opened; long before the mediation and establishment of the escrow fund. He stated IWRA's plan to put the escrow fund toward purses at Bluffs Run would not be good for Iowa, which is why the Iowa Greyhound Association board voted unanimously to support the proposal before the Commission. It is their belief the best use of the money is to use it to help keep the sport alive in Iowa and provide an opportunity to rebuild it. Mr. Hardison stated the board was not alone in their decision; the association members are in agreement with the proposal as well with the exception of a few out-of-state people who would rather take the money and leave. He stated that is not what the escrow fund is for, nor is it good for the racing industry in Iowa.

Mr. Crawford stated a majority of the Board is present, and would do better personally, if the escrow fund were added to purses at Bluffs Run, but they are unanimous as a Board of Directors in believing that is the wrong position for the State and industry, and feel the money should be used at Dubuque. Mr. Crawford noted the proposal received overwhelming support at various association meetings.

Mr. Crawford noted that on September 17, 1998, Lyle Ditmars, former legal counsel for IWRA, stated, "The fund (escrow fund) is to be used for the benefit of all Iowa breeders in the Iowa racing industry, which may not limit the fund just to Bluffs Run Casino." Mr. Ditmars went on to suggest some possible uses, one of which was supplementing purses for Iowa-bred greyhounds that succeed out-of-state. Mr. Crawford stated the Iowa Greyhound Association is not talking about using the funds out-of-state, but at the only surviving greyhound track in Iowa at the end of this year. He asked if it made sense that after the track spent a significant amount of money lobbying to kill greyhound racing at their track that they would then appear before the Commission and state the escrow funds should be spent on purses at their track when legal counsel has indicated otherwise.

Mr. Crawford stated Bluffs Run's proposal was to close the racetrack on July 1, 2014. The Iowa Greyhound Association, on behalf of the greyhound kennels at Bluffs Run, negotiated successfully to continue live racing through 2014 and 2015. If Bluffs Run had their way, individuals involved in racing at the track would have been out of business after six months in 2014; however, they got an additional 18 months of racing and over \$15 million in additional purse money, an additional 18 months of employment for the kennel trainers, assistant trainers, handlers, farm workers, etc. They are now trying to do the same for the industry with the

operation in Dubuque. Mr. Crawford reiterated that everyone was aware from day one that it was their intention to utilize the escrow funds.

Mr. Crawford stated that Ms. May was an arbitrator in 1999, and signed an award that the escrow funds should be utilized to build the greyhound industry that allows Iowa greyhounds to compete on a national level. He indicated there is only one way left to achieve that goal, and that is to do it at the Dubuque track, not to give the money away in an excessive and non-productive way at Bluffs Run.

Mr. Crawford stated the Iowa Greyhound Association would only have one option if the Commission fails to give them the escrow account; that would be to go out in the market place and attempt to borrow approximately \$5 million at a cost of hundreds of thousands of dollars in interest if they can even get the loan. He questioned their ability to get the loan as the security would be payments from a company currently in bankruptcy, which is a red flag for most banks. Mr. Crawford noted that Ms. May is not involved with the bankruptcy proceedings, but did advise the Commission that the process is going smoothly. He advised that a bankruptcy judge in Delaware has described as “serious” creditors’ allegations that Caesar’s transferred substantial assets out of the reach of Caesar’s creditors prior to filing bankruptcy, and a New York judge stated “Caesar’s may have violated federal law when it stripped guarantees from debt in the transaction in which stakeholders were allegedly paid off while other investors were left out of the deal. Mr. Crawford stated the previous language would make it very difficult, if not impossible, and much more costly from an interest rate standpoint if the Iowa Greyhound Association does not receive the escrow account.

Mr. Crawford stated there have been comments that the escrow fund should be divided. He advised that if they have the entire fund to run live racing at Dubuque, the purses will be about one-third of what the purse values are at Bluffs Run, making it very difficult for staff to make sure individuals to not lose money in this proposition. He advised that receiving less than the entire escrow fund would be very problematic for the Iowa Greyhound Association. He requested the Commission grant their request for the entire escrow fund.

Mr. Tulipana concurred with Mr. Crawford’s comment that IWRA has not been actively involved in the meetings regarding the escrow fund, but stated they have been fully informed throughout the process. He expressed IWRA’s objection to any use of the escrow fund for any purpose other than which it was intended, which was for purses at Bluffs Run. Mr. Tulipana stated that Bluffs Run was required to pay the money for the express purpose of purse supplements at Bluffs Run; and that if the funds are not used for that purpose, the funds should be remitted back to Bluffs Run.

Ms. May advised that she has been retained by the management company, who has worked closely with IWRA on this and other issues at Horseshoe. She read the following excerpt from the Commission meeting minutes of May 20, 1999 with regard to the escrow fund: “Mr. Crawford noted that the Commissioners had copies of the previous arbitration decisions in their packets. The arbitration decision issued by David Blair in December 1995 stated that the 1996 purse supplement should be \$4 million, plus a \$4 million purse supplement escrow for purses in



future years.” The minutes further indicate Mr. Crawford went on to state there was no reference in either the statute or the arbitration decisions allowing for expenditures other than for purses.

Ms. May stated she and Mr. Crawford agree on almost everything personally, but almost nothing professionally; however, we were in agreement on this issue, but are not anymore. Ms. May agreed the Commission has a role in determining the payment from the escrow fund; however, it is strictly limited by what the statute permits in terms of distribution from the escrow fund. She stated the Commission is bound by the Legislature, which has already determined what is supposed to happen with the escrow fund. She reviewed the applicable statutes:

- Iowa Code Section 99F.6(5)b(2) – “... The Commission shall approve an annual contract to be negotiated between the recipient of the dog racing promotion fund (Iowa Greyhound Association) and each dog racetrack licensee to specify the percentage or amount of gambling game proceeds which shall be dedicated to supplement the purses of live dog races.” Ms. May stated the arbitration decisions say the same thing.

Ms. May stated that when the fund was established, the issue submitted for arbitration was defined as follows: The percentage or amount of gambling game proceeds that shall be “dedicated to supplement the purses of live dog races at Bluffs Run”; she stated this is the only reason the escrow fund has ever existed. The two decisions written thereafter indicate the amounts contributed should be consistent with that. Ms. May indicated any doubt left surrounding the intended use of the escrow account should be resolved.

Ms. May noted that legislation passed in 2014 provided for the elimination of live racing.

- Iowa Code Section 99D.9A(6)a states: “Compliance with the requirements of this section and the establishment of the Iowa greyhound pari-mutuel racing fund set forth in 99D.9(B) shall constitute the full satisfaction of and discharge from any and all liability or potential liability of the licensee in Pottawattamie County and the Iowa Greyhound Association which may arise out of either of the following:
  - (1) The discontinuance of live dog racing,
  - (2) Distributions made or not made from the Iowa greyhound pari-mutuel racing fund created in section 99D.9B, the subject of the previous presentation, or the purse escrow fund created in the arbitration decision issued in December 1995 with regard to the purse supplements to be paid at the pari-mutuel dog racetrack in Pottawattamie county, not in Dubuque.

She stated the Commission is familiar with what the first part means with regards to distributions under 99D.9B as it deals with the distributions from the greyhound fund. Ms. May stated the whole section is designed to cover the little variances within that purpose that the Commission has to decide such as who gets the money, when, what percentage and for what years. She stated as long as the Commission’s decisions meet the requirements of the Code section within the stated parameters, the Commission has the discretion.

With regard to the purse supplement fund, or escrow fund, the same issues apply. The Commission has to determine how much will go to Iowa-breds versus out-of-state greyhounds; will different levels of races be awarded more or less money; how much will be awarded to the various groups of individuals – kennel operators, owners, etc.

Ms. May moved to the immunity clause contained in the legislation. She stated immunity was granted for payments made within the parameters set forth above - purse supplement payments made to the greyhound races at Bluffs Run. She stated the Commission does not have the authority to do anything other than what the legislature said, which is to make purse supplement payments to the purse winners at Bluffs Run.

Ms. May stated she understands the position the Iowa Greyhound Association is in; they are trying to run a business for which there is no longer a market. Having said that, it does not change the wording of the statute. She pointed out that Bluffs Run is just not walking away from the greyhounds. The statute providing them with the ability to cease live racing requires them to pay \$9.285 million per year for seven years for the benefit of the greyhound industry. She noted the Iowa Greyhound Association will receive half of the funds, which can be used to operate the track in Dubuque. The other half of the funds will go directly to industry members.

Ms. May stated Bluffs Run is not appearing before the Commission to indicate they want the money, but to point out that the statute, the law and the history of the Commission indicate the funds can only be used for payment of purses at Bluffs Run. She stated that if the Commission tries to use the funds for any other purpose, there is no statutory authority. Ms. May stated the sole purpose of the purse escrow fund is to pay purses at Bluffs Run. She presented two suggestions for the distribution of the escrow fund: pay it all out to the kennels winning purses at Bluffs Run in 2015 or go back five years and distribute the funds to the purse winners proportionally over that period of time. Ms. May stated there are other options available, but pointed out these two would meet the statutory requirement regarding the use of the escrow funds. She stated giving the money to the Iowa Greyhound Association, shifting the money from Bluffs Run to Dubuque does not, and is directly contrary to every single statutory provision.

Ms. May stated she had carefully read the Iowa Greyhound Association's submission and could find no reference indicating Bluffs Run agreed they could have the escrow fund. She indicated that had it been there, she would have provided the Commission with significant information to the contrary. Ms. May stated Bluffs Run never agreed in isolation that the funds could go to the Iowa Greyhound Association to be used at their discretion in Dubuque or elsewhere. She reiterated the funds must be distributed according to the statute, which is for purse supplements at Bluffs Run.

Mr. Crawford advised the Commission to think carefully about credibility. With reference to statements that the fund could only be used for purses at Bluffs Run, he reiterated that Mr. Ditmars, an attorney for IWRA, suggested the funds could be used for out-of-state purses; encourage young people to get involved in the business, hire a chief operating officer for the Iowa Greyhound Association, or a Harley Davidson promotion, which has occurred. Mr.

Crawford stated he did not hear Ms. May mention anything about a credit should the smoking ban pass.

Ms. May concurred the escrow fund has been used for other things other than payment of purses. Bluffs Run has agreed that some of the interest, but never principal, could be used for ancillary promotions that would drive purses at Bluffs Run. She noted it was used for a Harley Davidson promotion at Bluffs Run. A request to use some of the escrow money to conduct the same promotion at Dubuque was made at the same time. At that time, the question of usage of the funds, and where the funds had to be used, came before the Commission. Jack Ketterer, former IRGC Administrator, concurred with IWRA that the funds could only be used at Bluffs Run. The Iowa Greyhound Association withdrew the request for funds to conduct a Harley Davidson promotion in Dubuque.

Chair Lamberti called for any comments or questions from Commission members.

Commissioner Mertz noted the Code requires the fund to be used for purses. She asked why it has not been used for purses previously.

Ms. May advised that substantial efforts had been made to do so over the years. She stated the Commission directed the Iowa Greyhound Association and Bluffs Run to come up with a plan to distribute the funds, and pushed them very hard to do so. However, Mr. Crawford stated there was no statutory authority to use the funds for anything other than purses, but did not want to use the fund and wanted it to continue to grow. The parties were never able to agree on a plan.

Mr. Crawford pointed out that in 1999 Ms. May was not yet an advocate for the other side. At that time, she was an arbitrator on a three-person panel. That decision stated "The escrow funds should be utilized to build a greyhound industry in Iowa that allows Iowa-bred greyhounds to compete on a national level." Mr. Crawford stated there is now only one way to accomplish that goal, and that is to supplement purses to the Dubuque track.

Commissioner Heinrich stated he is confused by the contradicting statements by Ms. May and Mr. Crawford as to whether or not the statute is clear. Ms. May reiterated her belief that it is clear; while Mr. Crawford stated there is nothing in the statute prohibiting the Commission from granting their request for the escrow funds. Mr. Crawford advised there is no reference to the escrow fund in the initial statute; the only reason it is mentioned in the new statute is because immunity was created to cover the distribution of the escrow fund. He stated everyone involved in the process, including the legislature, knew the Iowa Greyhound Association intended to use the fund for operations at Dubuque.

Commissioner Heinrich stated he is not so concerned about what people say, but more concerned with what the statute says. He stated that when a decision has to be made, those making the decision search for something solid on which to base their decision. In the Commission's case, that is the statute. He stated that he appreciates and understands both of their positions.

Commissioner Mertz stated she is aware of how these funds work, just like the rainy day fund in the Legislature.

Chair Lamberti stated he did not have any specific questions due to all of the information previously provided along with today's information and arguments. He noted both parties had stated their cases very well; however that does not make the Commission's decision any easier or clearer. Chair Lamberti stated in reviewing the history of the escrow fund he believes it was clearly intended for purses at Bluffs Run when it was initially established. He noted the payments came from Bluffs Run. It is his belief that if it was meant for purses, he questioned why it wasn't utilized for purses over the last 15 or so years. Chair Lamberti noted there were discussions in 2001 where the parties were told to reach an agreement or the Commission would do so; however neither scenario occurred. He stated that in reviewing comments made in various decisions there has been some evolution in terms of how the fund is viewed, its purpose and potential uses; possibly that it would not be used solely for purses at Bluffs Run, but for the greater good of the industry. Chair Lamberti stated that in reviewing contradictory comments throughout the history as to what should be done with the fund, ranging from purses to not purses, makes things difficult from the Commission's perspective. He noted there were numerous statements throughout today's presentations that the Commission has the authority to ultimately decide what to do with the funds. Noting the Commission has listened to the presentations this morning and reviewed the information in their meeting packets; there are good arguments on both sides. From his own perspective, he would support simply providing the funds to the greyhound association for the operation of Dubuque as he feels after so many years of holding the funds in escrow and not using them for purses at Bluffs Run there was some intent or acquiescence that these monies were being held for some greater purpose, unforeseen event or rainy day. Chair Lamberti called the passage of the legislation to end greyhound racing the biggest rainy day. Having said that, he noted that he is one of five, and believes he has a sense of how the Commission would like to resolve this difficult issue.

Chair Lamberti moved to provide for the distribution of the escrow fund for purses – one half for purses at Bluffs Run based upon the past five years, 2011-2015, and one half will be awarded to the Iowa Greyhound Association to be used for purses in the operation of the Dubuque track. Commissioner Heinrich seconded the motion. The motion carried on a 4-1 vote, Commissioner Mertz voting no.

Chair Lamberti moved to the Iowa Greyhound Association's plan to comply with Iowa Code 99D.7(23), the self-exclusion provisions. Mr. Crawford stated they thought an agreement had been reached with the Iowa Gaming Association relative to participating in their exclusion program for problem gamblers. He noted significant progress has been made. They were originally told it would cost them \$70,000 per year to have access, but noted some facilities are paying as little as \$8,000 per year for their full dues to the Iowa Gaming Association, which allows access to the self-exclusion list. He advised the Iowa Gaming Association's total receipts for the coming year are anticipated to be approximately \$7.1 million. Based on the receipts, Mr. Crawford stated their fees should be less than \$2,000 per year for dues to the Iowa Gaming Association. He further advised the Iowa Greyhound Association is not welcome to be a member of the Iowa Gaming Association; they have declined to offer them a membership. Mr.

Crawford called the situation ironic after hearing the presentations concerning problem gambling earlier in the meeting. He noted there is no statute giving the Iowa Gaming Association the right to maintain the problem gambling list or requiring any licensee to utilize their list. There is a resolution that was passed giving them the opportunity. Mr. Crawford stated it was his understanding that when the list was developed, the Iowa Gaming Association's member's dues did not increase. Mr. Crawford thought the issue was resolved with the Iowa Greyhound Association paying approximately \$1,800. He stated if they pay \$2,000, which they are willing to do, they will be paying the highest rate of anyone in the state, and would not have the benefits of being a member. He requested the Commission instruct the Iowa Gaming Association to make the list available to them.

Jon Moss, Executive Director of the Iowa Horsemen's Benevolent and Protective Association (IHBPA), concurred with Mr. Crawford's comments regarding the self-exclusion legislation. His review of the statute also indicates there is nothing specifically requiring the Iowa Gaming Association to maintain the list. He advised he is speaking on the issue today due to the Advanced Deposit Wagering legislation. He questioned whether those licensees would need access to the list. He stated the list should be accessible to all, whether that is the IRGC or some other mechanism; that it should not be a dues funded mechanism. Mr. Moss stated the IHBPA was happy to enter into an agreement with the Iowa Greyhound Association with regard to simulcasting.

Mr. Ehrecke advised the legislature passed legislation in 2004 requiring licensees to establish a process to allow persons to be voluntarily excluded from a racetrack enclosure and all other licensed facilities. The IRGC encouraged the Iowa Gaming Association to take on the task of developing the infrastructure to create the list and keep it confidential, accurate and archive the information going into the future. Based on that, the Commission has established significant fines if a licensee was found to be out of compliance. Mr. Ehrecke advised information is downloaded into the database on a daily basis and upgrades to technology that are required. Noting the list contains over 7,000 names, Mr. Ehrecke questioned the value of creating and maintaining the list over the past ten years. He stated the Iowa Gaming Association felt \$70,000 was appropriate for the knowledge created over the last ten years, and wanted the Iowa Greyhound Association to be a part of the knowledge and investment made. Mr. Ehrecke clarified the \$7,000 figure is something the Iowa Gaming Association does for new members before they get up and running; after that and as their revenues grow, the dues increase to a higher amount. He stated there has never been a request by the Iowa Greyhound Association to belong to the Iowa Gaming Association; the request was to find a way to have access to the self-excluded database. Mr. Ehrecke stated the Iowa Gaming Association's recommendation was to have the same minimum that would come in as a new licensee, \$7,000, to have access to the database. Mr. Ehrecke stated it would take a significant investment of money and time if someone else wants to take over the database and recreate it after ten years. He stated the Iowa Gaming Association feels this is a fair approach and a major accommodation based on the ongoing investment.

Chair Lamberti stated it was the Commission's hope the parties would have found a way to resolve the issue and move forward. He advised it was not the Commission's role to establish a

price, nor is it the issue before the Commission. The issue before the Commission is whether or not they will approve the plan submitted by the Iowa Greyhound Association for their compliance with the self-exclusion provisions of Iowa law. Chair Lamberti stated the Commission expects full compliance with the law regardless of the decision rendered today. He stated he had reviewed the Iowa Greyhound Association's proposal, and believes it complies with the law on self-exclusion.

Chair Lamberti moved to approve the plan submitted by the Iowa Greyhound Association to comply with Iowa Code Section 99D.7(23). Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the Request for Season Approvals. Jim Quilty, legal counsel, introduced Brian Carpenter, Director of Racing, who was present to address any questions regarding the season approvals.

Hearing no comments or questions concerning the submission, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the Iowa Greyhound Association's 2015 Season Approvals with the following conditions:

- The immediate written notification of any change in racing official positions.
- The completion of necessary IRGC licensing and DCI background checks of officials.
- The import and export contracts should continue to have the review and approval by staff to ensure regulatory compliance.
- Continuous review of racetrack maintenance issues and monitoring of injuries in cooperation with IRGC representatives.
- Walk through by IRGC staff to ensure all equipment is in working order and the facility is ready to accept the greyhounds.
- Approved security plan by staff.
- Submission to the Commission by April 1, 2015, of adequate financing to support the live racing operations. Submission would be reviewed for determination at the April 16, 2015, Commission meeting.

Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the contracts. Mr. Carpenter submitted the following contracts for Commission approval:

- ShopperTrak RCT Corp. – Patron Counting System
- Sportech Racing, LLC – Tote System
- Sportview Television Corp. – Television Control Center, Monitor System, Cameras and Technical Support for Live Racing
- Roberts Communications – Equipment and Services for Sending Out Simulcast Signal for Live Races

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by the Iowa Greyhound Association. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on PMR&C. Mr. Palmer submitted the ancillary purse agreements with the IAHBPA for the thoroughbreds and the Iowa Quarter Horse Racing Enterprise, Inc. on behalf of the quarter horses.

Mr. Moss thanked Prairie Meadows and the Iowa Greyhound Association for reaching an agreement.

Hearing no further comments or questions, Chair Lamberti moved to approve the ancillary agreements with the thoroughbreds and quarter horses. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the contracts. Mr. Palmer submitted the following contracts for Commission approval:

- Best Buy Stores, LP – Purchase of Electronic Items
- Des Moines Performing Arts – Sponsorship of Fine Arts Series Events
- High Plains Technology – Computer Hardware, Software and Related Services
- Karl Chevrolet – Purchase of Cars, Trucks and Parts
- US Foods – Food, Equipment and Supplies

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by PMR&C. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the hearing before the Commission, and called on Mr. Ohorilko. Mr. Ohorilko advised IRGC staff and SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City had entered a Stipulated Agreement with regard to a violation of the state-wide voluntary self-exclusion law. An individual signed up on the list in December 2013 at the Argosy Casino in Sioux City. Approximately a year later, the individual was gambling at the Hard Rock facility and won a taxable jackpot at a craps table. The jackpot was processed at the table, which triggered the violation of the resolution, and the individual left the property. The facility identified the individual and the problem shortly after it occurred. The individual returned to the facility the next day, and was recognized by staff who removed him from the facility. Mr. Ohorilko advised Hard Rock self-reported the issue. He stated SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City has agreed to an administrative penalty ranging from \$3,000 to \$20,000. He advised this is the first violation of this nature in the last 365 days.

Mr. Moyer advised the company takes regulatory compliance very seriously, but the most important issue is problem gambling. He stated the facility is very diligent about this issue, and accepted responsibility for missing this one. Mr. Moyer noted the table game jackpots are paid at the table and the paperwork processed later. He advised the situation was caught at the cage

when the paperwork was being processed. Mr. Moyer advised the policy has been changed, requiring that all paperwork be completed prior to any jackpots being paid out. He stated they are confident this situation will not occur again.

Hearing no comments or questions regarding the proposed Stipulated Agreement, Chair Lamberti moved to approve the Stipulated Agreement and recommended an Administrative Penalty of \$3,000. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to Public Comment, noting one individual had signed up. John Filipelli, representing the Filipelli Miner Kennel, commented on the Spectrum Report. He advised he owns and runs a kennel at Bluffs Run with his wife. The following comments are in addition to concerns expressed previously in an e-mail to the Commission. He started his kennel in 2013, and has built a respectable and competitive kennel with the help of Iowa breeders and some out-of-state-investors, but his business, with five employees, will be gone in 10 months. Mr. Filipelli stated the formula for distribution of the funds recommended by Spectrum is that 80% be paid on past performances, which gives individuals who made millions in the past to make millions in the soft landing. He indicated the majority of these individuals would be IGA board members. During a meeting in August 2014, it was stated that IGA board members would not make recommendations to the consultant on what the formula should be; however, pages 11 and 12 of the report show that Spectrum visited Brad Boeckenstedt's farm, giving them details on his costs over the years, his facility, and many other details. On page 18, Robert Hardison, President of the Iowa Greyhound Association, stated that the use of 1099 forms is the most comprehensive and fair way to distribute the funds. Mr. Filipelli reminded the Commission that the law is one that the Iowa Greyhound Association, along with their lobbyists, helped to write. He closed his comments by stating it was his and his family's hope the Commission would not succumb to the old saying "The rich get richer, and the poor get poorer" when making their decision.

Chair Lamberti moved to Administrative Business, and called on Mr. Ohorilko. Mr. Ohorilko noted the facilities submit unaudited economic impact reports to the Commission on an annual basis regarding the total impact of gambling on Iowa. He advised the numbers are consistent with what has been submitted in the past, and do reflect the positive impact of gambling on the state of Iowa. Mr. Ohorilko advised over \$270 million was paid out in payroll and employment benefits by Iowa casinos; over \$381 million in statutorily required payments of taxes for payroll and gaming taxes; and over \$33 million to the non-profits and other charitable contributions made by the casinos. He stated total economic impact to Iowa is \$1,044,828,977, which is just shy of the \$1.1 billion spent last year. He noted the "Buy Iowa" initiative for the properties is the highest it has been in recent years at 87.8% spent with Iowa vendors. When gaming equipment and specialized sources are removed, the Iowa percentage increases to 96.4%. Mr. Ohorilko advised all properties in Iowa exceeded 90%, which is difficult for some of the properties along the border to attain.

Mr. Ohorilko gave notice that applications for the Horse Promotion Fund are due in the Commission's office by 3:30 PM on April 2, 2015. All of the information will be posted on the Commission's website. He advised there is \$2,873.63 available for distribution.



Mr. Ohorilko advised the statutorily mandated purse supplements for 2015 for horse racing are as follows:

- Thoroughbreds - \$14,401,427
- Quarter Horses - \$2,889,760
- Standardbreds - \$1,658,059

As there was no further business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Kramer so moved. Commissioner Mertz seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK